

REMARKS

Prior to entry of this paper, Claims 1-3 and 28-51 were pending. Claims 1-3 and 28-51 were rejected. In this paper, no claims are amended. Claims 1-3 and 28-51 remain currently pending. For at least the following reasons, Applicants respectfully submit that each of the presently pending claims is in condition for allowance.

Telephone Interview

Applicants submitted a request for a telephone interview on April 9, 2007, along with an amendment and request for continued examination. A telephone interview was held on April 18, 2007. Applicants' attorney requested clarification on the Examiner's interpretation of the new limitation directed to instructions for each audio ad set defining selection and broadcast of a plurality of audio advertisements based at least in part on a relationship between the audio communication link and another attempted audio communication link. The Examiner indicated that he could interpret the new limitation broadly in view of portions of the specification that give different examples of the new limitation. No further clarification was given of what was meant by such broad interpretation. The Examiner suggested possible distinctions, such as specifying where each portion of the processing is performed (e.g., on server and/or client), where/how demographic data is found/stored, and techniques for scheduling ads. However, the Examiner then said that, although all of those things might get over the existing art, they were all well known, and he would probably be able to find other art for such limitations. No agreement was reached.

Claim Rejections – 35 U.S.C. § 103

Claims 1-3 and 28-51 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Dialpad.com (Dialpad.com screenshots from 8/17/2000 and prior obtained via www.archive.org/ The Wayback Machine, hereinafter "Dialpad.com") in view of Landsmann (US 6,314,451, hereinafter "Landsmann"). Applicants respectfully maintain the arguments submitted in prior responses, which are hereby incorporated by reference.

Similarly, the FOA's judgment on obviousness is flawed by interpretation of rotating banners based on knowledge gleaned only from Applicants' disclosure. As above, the FOA cites a portion of Dialpad.com that refers to banner ads, but interprets them out of context. In true context, Dialpad.com states that "The company has already begun to generate ad revenues from its rotating banners on the Dialpad.com applet and Web site." Page 1 of 2 section that is titled, 'Dialpad.com hits 2 million members in the first 12 weeks; also cited as Dialpad.com, Press Release of January 12, 2000, pg. 21 of 29, lines 9-10. Dialpad.com indicates that the rotating banner ads are on an applet and web site. However, there is no disclosure or suggestion as to how selection and broadcast of such banner ads are defined. At best, the FOA appears to use uncited common knowledge or uncited common sense to interpret how banner ads are rotated. The FOA certainly does not indicate that Dialpad.com discloses or suggests that selection and broadcast control of a plurality banner ads is based on a status of an audio communication link over a network; and a relationship between the audio communication link and another attempted audio communication link.

Instead, the FOA relies on a portion of Dialpad.com that immediately follows the above statement about banner ads. After the sentence about rotating ads, Dialpad.com states “Additional revenue will come this quarter from audio ad bumpers on the front and back end of all calls . . .” Page 1 of 2 section that is titled, ‘Dialpad.com hits 2 million members in the first 12 weeks; also cited as Dialpad.com, Press Release of January 12, 2000, pg. 21 of 29, lines 10-11. However, there is no disclosure or suggestion that such audio ad bumpers have any relation to the applet or other configuration instructions that define selection and broadcast control of a plurality of audio advertisements based at least in part on a relationship between the audio communication link and another attempted audio communication link. Thus, there is no relationship between rotating ads and audio ads.

On the contrary, the same press release states that call control is separate from voice streaming. Specifically, the January 12, 2000 press release states that “The have perfected a unique method for splitting call control from voice streaming, leaving the more complicated functions on

its servers and allowing the user to operate a very thin, lightweight Java applet on their PC.” Dialpad.com, Press Release of January 12, 2000, pg. 20 of 29, lines 30-31. The logical interpretation to one of ordinary skill in the art would be that audio ad bumpers are controlled by voice streaming servers that control the calls, rather than the lightweight Java applet on a user’s personal computer.

Instead, the FOA makes the illogical interpretation that Dialpad.com’s “rotating banners” suggest different ads for numerous calls. Even though Dialpad.com clearly separates rotating banners on the lightweight Java applet, from audio ad bumpers, the FOA illogically concludes that Dialpad.com’s ad bumpers and Landsmann’s applet disclose the claim limitation of configuration instructions that create a plurality of audio ad sets, the instructions for each set defining selection and broadcast control of a plurality of audio advertisements based at least in part on a status of an audio communication link over a network; and a relationship between the audio communication link and another attempted audio communication link. The FOA’s illogical interpretation of the cited references again shows that the judgment on obviousness is made based on knowledge gleaned only from Applicants’ disclosure.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. §103(a) of the independent claims be withdrawn. It is well settled that dependent claims are patentable for at least the same reasons as the independent claims from which they depend. Accordingly, Applicants respectfully request that the rejection of the dependent claims under 35 U.S.C. §103(a) also be withdrawn.

It is respectfully submitted that each of the presently pending claims (Claims 1-3 and 28-51) is in condition for allowance and notification to that effect is requested. Examiner is invited to contact the Applicants' representative at the below-listed telephone number if it is believed that the prosecution of this application may be assisted thereby. Although only certain arguments regarding patentability are set forth herein, there may be other arguments and reasons why the claimed invention is patentable. Applicant reserves the right to raise these arguments in the future.

Respectfully submitted,

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